

MULTIETHNIC PLACEMENT ACT (MEPA)/INTERETHNIC ADOPTIONS PROVISIONS (IEP)

REFERENCES

Department of Health and Human Services, Office for Civil Rights and Administration for Children and Families (2009). Policy Guidance on the Use of Race, Color or National Origin as Considerations in Adoption and Foster Care Placements. Retrieved July 6, 2009 from http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/1995/pi9523a6.htm

(K2a, K2b, K2c, K3, K4)

About the study/citation-

This citation provides some background information on MEPA, policy guidance, discussion of race, culture, or ethnicity as a factor in selecting placements, recruitment efforts and also on enforcement and compliance of MEPA.

Findings/content-

- On October 20, 1994 President Clinton signed the "Improving America's Schools Act of 1994," which includes Section 551, titled "The Multiethnic Placement Act of 1994" (MEPA).
- The purposes of MEPA are: 1) to decrease the length of time that children is awaiting adoption; 2) to prevent discrimination in the placement of children on the basis of race, color, or national origin; and 3) to facilitate the identification and recruitment of foster and adoptive parents who can meet the needs of the children.
- The law permits an agency to consider, in determining whether a placement is in a child's best interests, "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background." If an agency chooses to include this factor in placement decisions, it must be considered in conjunction with other factors relevant to the child's best interests and must not be used in a way that delays the placement decision.
- The law prohibits agencies from "categorically denying to any person the opportunity to become an adoptive or foster parent solely on the basis of the race, color, or national origin of the adoptive or foster parent or the child" and "from delaying or denying the placement of a child solely on the basis of race, color, or national origin of the adoptive or foster parent or parents involved."

Under the Act, these also apply to the failure to seek the termination of parental rights or in making a child legally available for adoption.

- The Act also seeks to ensure that agencies participate in active recruitment of potential foster/adoptive parents who reflect the racial and ethnic diversity of the children needing placement. Section 554 of the Act amends Section 422(b) and Part A of Title XI of the Social Security Act. The amendment identifies the following requirements for child welfare services programs: "[Each plan for child welfare services under this part shall . . .] (9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."
- A number of practices currently followed by some agencies appear to violate MEPA or Title VI. These include policies that:
 - establish time periods during which only a same race/ethnicity search will occur;
 - determining orders of placement preferences based on race, culture, or ethnicity;
 - require caseworkers to justify transracial placements; or
 - delaying placements, either before or after termination of parental rights, in order to find a family of a certain race, culture, or ethnicity.
- To meet MEPA's diligent efforts requirements to recruit foster/adoptive parents, an agency should have a comprehensive plan that includes:
 1. a description of the characteristics of children who are awaiting placement
 2. specific strategies to reach different parts of the community
 3. diverse methods of disseminating both general and child specific information
 4. strategies for assuring that all prospective foster/adoptive parents have access to the home study process
 5. strategies for training staff to work with different cultural and socioeconomic communities
 6. strategies for dealing with language barriers
 7. non-discriminatory fee structures
 8. procedures for a timely search for prospective parents for child awaiting placement, including the use of exchanges and other interagency efforts
- As provided in Section 553(d)(1) of MEPA, agencies are required to comply with the Act no later than six months after publication of this guidance or one year

after the date of the enactment of this Act, whichever occurs first, i.e., October 21, 1995.

- MEPA provides two methods for enforcement of its prohibition against discrimination in adoption or foster care placement. First, pursuant to Section 553(b), any individual who is aggrieved by an action he or she believes constitutes discrimination in violation of MEPA, has the right to bring an action seeking equitable relief in a district court. Second, the Act provides that noncompliance with the prohibition is deemed a violation of Title VI.
- Any individual may file a complaint with OCR alleging that an adoption or foster care organization funded by HHS makes placement decisions in violation of the Multiethnic Placement Act and Title VI. OCR may also initiate compliance reviews to determine whether violations have occurred. If OCR determines that an adoption or foster care organization makes discriminatory placement decisions, OCR will first seek voluntary compliance with the law. Should attempts at voluntary compliance prove unsuccessful, OCR will take further steps to enforce the law.
- Further steps to enforce the law may involve referring the matter to the Department of Justice with a recommendation that court proceedings occur. HHS may also initiate administrative proceedings which may lead to the termination of Federal financial assistance for the agency for noncompliance. These proceedings include the opportunity for an agency to have a hearing on any OCR findings made against it.
- When a state fails to develop an appropriate recruitment plan and pursue the placement of children consistent with MEPA, the Secretary through ACF and OCR will provide technical assistance to the state to develop a plan and resolve through corrective action, major compliance issues. If these efforts fail, the Secretary will determine appropriate penalties.

Implications for CWS-

The worker must understand and follow the provisions set forth by MEPA in accordance with the best interest of the child. The worker should understand what constitutes noncompliance, so to assure that when the placement of children occurs, the worker is abiding by MEPA. .

Hollinger, J.H. (2006). Overview of the Multiethnic Placement Act (MEPA). Retrieved on July 6, 2007 from <http://www.abanet.org/child/adoption-6.pdf>

(K1, K2a, K2b, K2c, K3, K4)

About the study/citation-

This citation provides an overview of MEPA, including the specific intentions of MEPA, the basic requirements of MEPA, and what kind of practices can violate MEPA.

Findings/content-

- MEPA is aimed at removing the barriers to permanency for children who are in the child welfare system, and especially, for the African-American and other minority children who are disproportionately represented in out-of-home care.
- The specific intentions of MEPA include:
 1. to decrease the length of time that children wait to be adopted
 2. facilitate recruitment and retention of foster/adoptive parents who can meet the needs of children who are waiting for placement
 3. eliminate discrimination on the basis of the race, color or national origin of the child or foster/adoptive parents.
- The goals of MEPA are:
 1. MEPA prohibits agencies and entities from delaying or denying a placement on the basis of the child's or prospective parent's race, color, or national origin.
 2. MEPA prohibits agencies from denying any person the opportunity to become a foster/adoptive parent on the basis of that prospective parent's or the child's race, color, or national origin.
 3. MEPA requires that in order for states to remain eligible for federal assistance, states must diligently recruit foster/adoptive who reflect the racial and ethnic background of the children in the state who need placements.
- The Act also stated that it is "permissible" to consider a child's "cultural, ethnic or racial background" and a prospective parent's capacity to meet these needs as a relevant factor in determining the child's best interest.
- The Interethnic Provisions repealed some of MEPA's provisions, such as the permissible considerations, and replaced them with explicit prohibitions as part of MEPA. It is now clear that any delay or denial of placement or the opportunity to be a parent basis of race, color or national origin, are against the law.
- These revisions also clarify that children who are in state care have constitutional protections against racial or ethnic discrimination and also that all child welfare

agencies receiving federal funds are subject to the anti-discrimination provisions of Title VI of the Civil Rights Act of 1964.

- Under MEPA, the following are not permitted:
 - setting a certain time period during which only searches for a racially or ethnically matching placement will occur;
 - establishing placement preferences based on racial or ethnic factors;
 - requiring caseworkers to justify transracial placements but not requiring that for same race placements;
 - other practices that directly or indirectly delay placements before or after termination of parental rights, for the reason of finding a racially or ethnically matched family.
- MEPA does not prohibit consideration of a child's cultural background and experience in making placement decisions.
- In meeting the requirement of diligent recruitment of foster and adoptive parents, agencies must:
 - Develop comprehensive recruitment plan based on characteristics of children waiting for placement
 - Target recruitment strategies to meet needs of underserved children
 - Design procedures to welcome applicants and ensure them timely access to home study process
 - Use non-discriminatory fee structure;
 - Consistent with ASFA as well as MEPA-IEP, make use of adoption exchanges, interagency recruitment programs, etc.
- The primary manner for enforcing MEPA has been through administrative actions responding either complaints or violations found by the Office of Civil Rights (OCR) in its own reviews of state child welfare programs. HHS provides technical assistance and encourages voluntary compliance. However, if violations are not corrected within a certain amount of time, HHS can seek to have federal funds withheld from the noncompliant agency. Since 1995, HHS has conducted a number of compliance reviews and required some states to make corrective actions after OCR found systemic practices that denied or delayed placements of minority children by imposing different criteria for transracial than for same-race placements. These unlawful practices include evaluations that attached more significance to the factor of race rather than to the specific physical/emotional needs of the child, and placements of medically fragile young children with same-race foster parents who were not trained to care for this population.

Implication for CWS-

The worker needs to understand the provisions of MEPA and how this guides or influences the placement process. The worker needs to understand the importance of compliance and the review process in determining compliance in order to follow the provisions of this act.

Hollinger, J.H., American Bar Association Center on Children and the Law and the National Resource Center on Legal and Court Issues (1998). A Guide to the Multiethnic Placement Act of 1994 as Amended by the Interethnic Adoption Provisions of 1996. Retrieved on July 6, 2009 from <http://www.acf.hhs.gov/programs/cb/pubs/mepa94/>

(K1, K2, K3)

About the study/citation-

This citation provides an overview of MEPA, provisions of MEPA-IEP, common questions about MEPA-IEP and checklists for implementation of MEPA-IEP. The information provided is to assist agencies and workers in understanding and addressing implementation issues related to MEPA-IEP.

Findings/content-

- The specific intentions of MEPA-IEP are to:
 1. reduce the amount of time that children wait to be adopted,
 2. promote the recruitment and retention of foster and adoptive parents who can meet the important needs of children who are waiting for placement
 3. address and eliminate discrimination on the basis of the race, color, or national origin of the child and/or the potential foster/adoptive parents
- MEPA-IEP has three basic mandates:
 1. It prohibits states that are involved in foster care or adoption placements, and that receive federal financial assistance, from delaying or denying a child's placement on the basis of the child's or the potential parent's race, color, or national origin
 2. It prohibits these states from denying any individual the opportunity to become a foster or adoptive parent on the basis of race, color, or national origin
 3. To remain eligible for federal assistance for their child welfare programs, it requires that states recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who are in need of placement.

- In enacting MEPA, Congress found that there were about 500,000 children in out-of-home care, of whom thousands were awaiting adoption, and that children who were eventually adopted waited an average of 2.67 years after they were legally available for adoption.
- MEPA-IEP applies to states that receive federal funds, but it also applies to other public or private agencies involved in placements that receive federal funds, whether the funds are received directly or through a subgrant from a state, county, or another agency.
- Although MEPA-IEP does not allow states and agencies to delay a child's placement for the purpose of finding a racial or ethnic match, many other factors contribute to delays within the child welfare system. These factors include high caseloads that challenge the completion of individualized assessments of children's needs, court delays, securing appropriate out-of-home care for children who have been abused, misinformation about the availability of medical and other assistance and subsidies for foster care and adoptive children, and cultural norms that are viewed as not favorable towards formal adoption
- An appropriate comprehensive recruitment plan for foster and adoptive parents includes:
 - A description of the characteristics of waiting children.
 - Specific strategies to reach different parts of the community
 - Diverse ways of disseminating both general and child specific information.
 - Strategies for assuring that prospective foster/adoptive parents have timely access to the home study process.
 - Strategies for training staff to work with diverse cultural and socioeconomic communities.
 - Strategies for dealing with barriers related to language.
 - Non-discriminatory fee structures.
 - Procedures for a timely search for prospective parents for a child who is awaiting placement.
- MEPA-IEP specifically states that it has no effect on the Indian Child Welfare Act (ICWA).
- Agency administrators should identify barriers to implementation of MEPA-IEP and make plans for addressing those barriers. Some of the potential barriers:
 1. Confusion- Confusion about the requirements of MEPA-IEP
 2. Lack of resources- Implementation of MEPA-IEP may be viewed as another unfunded mandate

3. Resistance- Administrators can address this resistance by discussing with workers the goals and underlying values of the law in addition and its provisions. Staff meetings can provide an opportunity for value clarification. Open discussion is important because implementation of MEPA-IEP can trigger explosive and emotional issues concerning the needs of children and issues related to racism and discrimination.

4. Fear of litigation- Fear of litigation can create a climate in which workers or supervisors are hesitant to exercise their discretion in the best interest of the children. Administrators should provide their staff with competent legal advice.

- Some things that agencies can do:
 1. Decrease delays in permanence caused by other factors
 2. Review current state law and agency policies for compliance with MEPA-IEP
 3. Implement a comprehensive recruitment plan.
 4. Develop a system for supervision and technical assistance for workers to promote compliance that meets the best interests of the children.
- Some things that workers can do:
 1. Make individual decisions based on sound child welfare practice and the best interest of the child.
 2. Consider permanence from the first contact with the child.
 3. Review state law and agency policy and ask for clarification.
 4. Document the reasons for decisions.

Implications for CWS-

The worker needs to understand the provisions of MEPA-IEP when making case planning decisions in order to support permanence and the best interest of the child. The worker needs to ask for clarification on the Act when needed.

McRoy, R., Mica, M., Freundlich, M., and Kroll, J. (2007). Making MEPA-IEP Work: Tools for Professionals. *Child Welfare, 86(2), 49-66.*

(K1)

About the study/citation-

This citation explores the background of MEPA-IEP, describes the disparity of outcomes for minority children in the child welfare system, and identifies challenges in finding permanent families for African American children. Tools are discussed for successfully recruiting families while following MEPA-IEP and avoiding possible discriminatory practices in the placement of children.

Findings/content-

- In 1994, US Congress passed the Multiethnic Placement Act. Two years later, Congress amended MEPA by the Removal of Barriers to Interethnic Adoption (IEP) provisions. The amendment was needed to "remove potentially misleading language in the original provisions" and clarify that "discrimination is not to be tolerated"(Hollinger, 1998).
- Although MEPA-IEP was created to eliminate racial barriers to adoption by supporting transracial adoptions, minority children, especially African American children, still wait for permanent placements.
- Since the enactment of IEP in 1996, the US Department of Health and Human Services (DHHS) has issued regulations regarding the penalties that may be issued against states if they are found to have delayed or denied a child's foster or adoptive placement on the basis of race. DHHS and the Office of Civil Rights have specifically directed their enforcement efforts to the "no delay and deny" provision.
- Some of the tools for professionals discussed are:
 1. Hollinger (1998) provides guidance for caseworkers and supervisors:
 - a. MEFA-IEP requires diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial background of the children who need homes. However, states and agencies must ensure that they do not deny anyone the opportunity to adopt or foster a child on the basis of race, color, or national origin.
 - b. Targeted recruitment should be part of a comprehensive strategy aimed at reaching different parts of the community. Information should be disseminated to these communities through organizations.
 - c. Although a state may contract with an agency to make public announcements in Spanish in order to recruit Hispanic foster and adoptive parents, the state may not rely exclusively on that agency to place Hispanic children.
 2. In NACAC s Summer 2005 Adoptalk magazine, Riggs provided a number of recruitment tips collected from interviews with many African American adoption program directors. Some of these recommendations include the following:
 - a. Agencies should hire African American staff, have members of the African American community on the agency board, and involve African American adoptive families in their recruitment process
 - b. Staff of predominantly white agencies should assess personal biases and stereotypes about African American families and evaluate policies and

practices that might be challenges for African American families seeking adoption services. They should consider where the agency is located in accordance to the community in which families are sought

c. Agencies must build trusting relationships within the community by partnering with African American organizations, offering services to the community, and build trust and credibility by connecting with African American-owned businesses.

d. Personal contact and respect for families is important. When working with families, staff should be available, organized, and responsive, and should keep families informed of waiting children while the family assessment process is occurring.

Implication for CWS-

For workers who are new to child welfare or otherwise new to the social work field, it is important for those workers to be especially informed about MEPA-IEP and utilize some of the suggested tools into practice. This will assist the worker in the decision-making process in placing children with the children's best interest in mind, while following MEPA-IEP.

U.S. Department of Health and Human Services (n.d.). OCR and HHS Administration on Children Disseminate Self-Assessment Tool to Facilitate Non-Discrimination on the Basis of Race in Foster Care and Adoption. Retrieved on July 6, 2009 from <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/adoption/interneval.html>

(K4)

About the study/citation-

This citation discusses the MEPA/Section 1808 Internal Evaluation Instrument. The Internal Evaluation Instrument is a document developed by the Department of Health and Human Services' Administration for Children and Families, Children's Bureau (ACF) and Office for Civil Rights (OCR) that provides a process by which States and agencies may voluntarily review programs, policies, and procedures for compliance with the MEPA and the Interethnic Adoption Provisions.

Findings/content-

- The instrument was developed as a self-assessment tool that can be used by states and other agencies to assess their compliance with MEPA. States and agencies that use the instrument may still be the subject of OCR complaint investigations and compliance reviews as well as ACF reviews.

- States may also want to assess their compliance in other ways. For example, states can conduct focus groups, surveys or interviews with staff as well as current and prospective foster/adoptive parents. The information from these activities may be helpful in determining how the agency's actions are perceived by some of the stakeholders in the foster care/adoption process.
- The Instrument is structured in a way that recognizes the different steps in the foster and adoptive parent approval process and how these are frequently contracted out or assigned to different agencies or associations.
- The following requirements will continue to be monitored by ACF and OCR:
 1. The State has in place a process for assuring the recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed. (Section 422(b)(9) of the Social Security Act (the Act))
 2. The State may not deny the opportunity to any person to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved. (Section 471(a)(18) of the Act)
 3. The State may not delay or deny the placement of a child on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved. (Section 471(a)(18) of the Act)
 4. The State does not maintain any statute, regulation, and practice that, if applied, would likely result in a violation against a person as defined in the above. (45 CFR 1355.38(a)(2), (3))
- The instrument contains the following sections:
 1. Recruitment of Foster and Adoptive Parents
 2. Screening, Orientation, Preparation, and Assessment of Prospective Foster and Adoptive Parents
 3. Foster/Adoptive Parent and Staff Training
 4. Licensing/Approval of Foster and Adoptive Parents
 5. Assessment of Foster and Adoptive Children
 6. Selection Process and Placement of Foster and Adoptive Children
 7. Quality Assurance and Compliance Monitoring

- An example of the instrument is provided on the website.

Implications for CWS-

It is important for the worker to recognize the compliance and review process in order to assist the agency in maintaining compliance with regulations. Also, this instrument provides an example of how to monitor and assess compliance for the worker in his or her own practice.